United Nations S/AC.49/2018/72

Security Council

Distr.: General
16 April 2018

Original: English

Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 16 April 2018 from the Permanent Mission of Austria to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Austria to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to transmit herewith Austria's report on the implementation of Security Council resolution 2375 (2017) in accordance with paragraph 19 of that resolution (see annex).

18-06280 (E) 100518

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Annex to the note verbale dated 16 April 2018 from the Permanent Mission of Austria to the United Nations addressed to the Chair of the Committee

Report of Austria on the implementation of Security Council resolution 2375 (2017)

1. Pursuant to paragraph 19 of Security Council resolution 2375 (2017), the Permanent Mission of Austria to the United Nations has the honour to inform the Security Council Committee established pursuant to resolution 1718 (2006) of the steps taken by the Government of Austria to implement the measures imposed in resolution 2375 (2017).

2. Austria and the other States members of the European Union have jointly implemented the restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council in its resolution 2375 (2017) following their transposition through the following common measures:[1]

(a) Council Implementing Decision (CFSP) 2017/1573 of 15 September 2017 implementing Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea, which implements the designation of additional persons and entities (travel ban and asset freeze);

(b) Council Implementing Regulation (EU) 2017/1568 of 15 September 2017 implementing Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea, which gives effect to Council Implementing Decision 2017/1573;

(c) Council Decision (CFSP) 2017/1838 of 10 October 2017 amending Decision (CFSP) 2016/849 concerning restrictive measure against the Democratic People's Republic of Korea, which sets out the commitment of the European Union to the implementation of the other measures contained in Security Council resolution 2375 (2017), including by:

(i) Prohibiting the provision of additional dual-use items related to weapons of mass destruction designated pursuant to paragraph 4 of resolution 2375 (2017) to the Democratic People's Republic of Korea;

(ii) Prohibiting the provision of additional items listed among the conventional arms-related items designated pursuant to paragraph 5 of resolution 2375 (2017) to the Democratic People's Republic of Korea;

(iii) Prohibiting entry into Member States' ports of vessels pursuant to paragraph 6 of resolution 2375 (2017);

(iv) Requiring Member States that are flag States and do not consent to inspection of a vessel on the high seas to direct the vessel to proceed to an appropriate and convenient port for the required inspection, and to immediately deregister the vessel following its designation by the Committee;

(v) Prohibiting the facilitation of or engagement in ship-to-ship transfers to or from vessels flagged by the Democratic People's Republic of Korea of any goods or items that are being supplied, sold or transferred to or from the Democratic People's Republic of Korea;

[1] All common measures are published in the *Official Journal of the European Union*.

(vi) Prohibiting the provision of all condensates and natural gas liquids to the Democratic People's Republic of Korea;

(vii) Prohibiting the provision of refined petroleum products to the Democratic People's Republic of Korea, unless the conditions contained in paragraph 14 of resolution 2375 (2017) are met;

(viii) Prohibiting the provision of an amount of crude oil to the Democratic People's Republic of Korea that is in excess of the amount that the member State provided in the period of 12 months prior to 11 September 2017, unless approved by the Committee in advance on a case-by-case basis;

(ix) Prohibiting the procurement of textiles from the Democratic People's Republic of Korea, unless the conditions contained in paragraph 16 of resolution 2375 (2017) are met, or unless approved by the Committee in advance on a case-by-case basis;

(x) Prohibiting the provision of work authorizations for nationals of the Democratic People's Republic of Korea in the jurisdiction of member States in connection with admission to their territories, unless approved by the Committee in advance on a case-by-case basis;

(xi) Prohibiting the opening, maintenance and operation of joint ventures or cooperative entities, unless approved by the Committee in advance on a case-by-case basis, and requiring the closure of existing ones by 9 January 2018 unless approved by the Committee on a case-by-case basis;

(d) Council Regulation (EU) 2017/1836 of 10 October 2017 amending Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea, which gives effect to the measures set out in Council Decision (CFSP) 2017/1838;

(e) Council Implementing Decision (CFSP) 2017/1909 of 18 October 2017 implementing Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea, which implements the designation of four vessels pursuant to paragraph 6 of resolution 2375 (2017);

(f) Council Implementing Regulation (EU) 2017/1897 of 18 October 2017 implementing Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea, which gives effect to Council Implementing Decision (CFSP) 2017/1909.

3. The above-mentioned Council regulations are binding in their entirety and directly applicable in all States members of the European Union. Council Regulation (EU) 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No. 329/2007 requires member States to determine the penalties applicable to infringements of their provisions. Penalties for violations of directly applicable European Union law are set out in the respective sections of the relevant Austrian legislation mentioned in paragraph 4 below. Non-compliance may constitute a criminal offence punishable by up to five years of imprisonment or by a fine of up to 360 times the applicable daily rate (e.g., in the case of the Foreign Trade Act).

4. In addition to the common European Union measures, within the scope of Austria's national implementation competence, the Austrian authorities apply the following Austrian legislation in implementing the restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council:

(a) Sanctions Act 2010 (Federal Law Gazette I No. 36/2010, as amended);

(b) Foreign Trade Act (Federal Law Gazette I No. 26/2011, as amended), supplemented by the First Foreign Trade Regulation (Federal Law Gazette II No. 343/2011, as amended) and the Third Foreign Trade Regulation (Federal Law Gazette II No. 6/2015, as amended);

(c) War Materials Act (Federal Law Gazette I No. 57/2001, as amended) and War Materials Regulation (Federal Law Gazette No. 624/1977);

(d) Foreign Exchange Act (Federal Law Gazette I No. 123/2003, as amended);

(e) Banking Act (Federal Law Gazette No. 532/1993, as amended).

5. As regards restrictions on admission (travel ban), Austria has enacted the following national legislation, which, together with Council Decision (CFSP) 2016/849 (as amended) and Regulation (EC) No. 539/2001, provides the basis for the refusal of admission and the denial of requests for visas:

(a) Aliens Police Act 2005 (Federal Law Gazette I No. 100/2005, as amended);

(b) Settlement and Residence Act (Federal Law Gazette I No. 100/2005, as amended).

The above-mentioned regulations require nationals of the Democratic People's Republic of Korea to be in possession of a visa when entering the European Union. The travel restrictions are implemented through the visa application process.

6. According to the competent national authorities, the implementation of the imposed measures currently does not pose any particular difficulty. The competent national authorities continue to exercise enhanced vigilance over the very limited bilateral import/export activities and continue to conduct outreach activities aimed at relevant trade and industry sectors to increase awareness of trade patterns and activities of entities of the Democratic People's Republic of Korea and to provide information about changes in the sanctions regime.

7. In 2017, in view of the growing concerns that the Democratic People's Republic of Korea might be abusing the privileges and immunities accorded under the Vienna Conventions on Diplomatic and Consular Relations, the Austrian authorities demonstrated enhanced vigilance in the conduct of inspections of two container shipments by the Embassy of the Democratic People's Republic of Korea in Vienna declared as household equipment and personal belongings of members of the diplomatic staff returning to the Democratic People's Republic of Korea upon the end of their tour of duty. The inspections were conducted in full accordance with article 36, paragraph 2, of the Vienna Convention on Diplomatic Relations, since, in the light of weight discrepancies and conflicting information in the shipping papers, there were serious grounds for presuming that the shipments contained articles the export of which was prohibited under the relevant sanctions provisions. Following the inspections and a thorough assessment by the competent authorities, the majority of the items were cleared for onward shipment. However, several items that were considered luxury items prohibited under the relevant European Union legislation were removed from the shipment and returned to the Embassy for use and/or consumption in Austria. Nevertheless, in accordance with section 79 of the Austrian Foreign Trade Act, criminal proceedings were initiated against the North Korean individuals responsible for the shipments, who had left their posts in Austria and thus no longer enjoyed absolute diplomatic immunity.

8. The Government of Austria is fully committed to maintaining its high level of implementation and to keeping the measures taken under review, as necessary.